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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2012-0001]

RIN 0579-AD67

Chrysanthemum White Rust Regulatory Status and Restrictions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: We are soliciting public comment on whether and how we should amend our process for responding to domestic chrysanthemum white rust (CWR) outbreaks and the importation of plant material that is a host of CWR. Domestically, CWR host plants must be surveyed and, if found to be infected with CWR, must undergo quarantine, destruction, treatment, or other sanitation measures called for in our National Management Plan. The importation of CWR host plants for planting from a number of countries and localities is currently prohibited to prevent the introduction of CWR into the United States. In addition, importation of cut flowers of CWR host plants from countries where CWR is known to occur is currently restricted. We are reevaluating our current regulatory strategy in order to improve the effectiveness and economic efficiency of our programs. After evaluating public comment on the issues presented in this document, we will determine whether to propose changes to our existing regulations.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to
<http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0001-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0001, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0001> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, National Program Manager, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737; (301) 851-2286.

SUPPLEMENTARY INFORMATION:

Background

Puccinia horiana P. Henn. is a filamentous rust fungus and obligate parasite that is the causal agent of chrysanthemum white rust (CWR), an economically important disease in both field-grown and greenhouse-grown chrysanthemum plants, as well as cut flower production.

APHIS considers P. horiana a quarantine pest. Reports of CWR occurrences within the United

States trigger eradication protocols in accordance with the CWR National Management Plan for Eradication.¹ Currently, the regulations in 7 CFR 319.37-2(a) prohibit the entry into the United States of plants for planting that are hosts of CWR from all countries where CWR is known to occur, unless imported under the specific conditions of a departmental permit in 7 CFR 319.37-2(c). Under 7 CFR 319.37-5(c), importations of CWR host plants for planting imported from all other countries are required to be accompanied by a phytosanitary certificate with an additional declaration stating that the plants and place of production have been inspected and found free of the causal agent of CWR. Under § 319.37-7, imported host material that meets the conditions of § 319.37-5(c) must be grown under the conditions of a postentry quarantine growing agreement at an approved location for 6 months and be inspected by an inspector prior to being released from quarantine.

The regulations in 7 CFR 319.74 restrict the entry into the United States of cut flowers of CWR host plants from countries where CWR is known to occur. Consignments of cut flowers of CWR host plants imported from these countries must be accompanied by a phytosanitary certificate with an additional declaration stating that the place of production and the consignment have been inspected and found free of the causal agent of CWR.

Despite these regulations, detections of CWR within the United States continue to occur, leading to costly eradication measures that must be undertaken by both Federal and State agencies. In addition, many stakeholders no longer consider the causal agent of CWR to be a pest of quarantine significance due to its limited host range, its frequent detection within the United States, and the availability of treatment/control measures within countries where it is present, and have expressed interest in revisiting the regulatory status of CWR. For these

¹ The CWR National Management Plan for Eradication is available on the APHIS Web site at http://www.aphis.usda.gov/plant_health/plant_pest_info/cwr/downloads/cwrplan.pdf

reasons, the Animal and Plant Health Inspection Service (APHIS) is considering potential changes to our domestic CWR eradication program and the CWR import regulations in an effort to improve the effectiveness and economic efficiency of our programs.

We are publishing this advance notice of proposed rulemaking in order to request public comment as we reconsider our regulatory strategy for CWR. We are currently considering four options for the future of the CWR program. The options under consideration are:

1. Continuing to manage CWR as a quarantine pest with the objective of continuing to eradicate new infestations. This option would maintain the current status of CWR with no changes to the program.

2. Revising the current regulations to designate CWR as a regulated non-quarantine pest. A regulated non-quarantine pest is a pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and would therefore require regulation within the United States and on all similar plant material imported into the United States to ensure a low prevalence of CWR in production facilities. Designating CWR as a regulated non-quarantine pest would allow for the creation of a certification program for both domestic propagators and propagators in foreign countries who want to export cuttings of CWR hosts into the United States. This certification would provide a level of protection against the possible shipment of CWR infected cuttings from approved foreign facilities. Designating CWR as a regulated non-quarantine pest would mean discontinuing the current process for responding to domestic CWR outbreaks and the removal of CWR from our list of actionable quarantine pests.

3. No longer managing CWR as a quarantine pest whose presence requires an eradication-oriented response, but maintaining port of entry restrictions for chrysanthemums

destined to those States where CWR is not present and where these States have established an official control program under the Federally Regulated State-Managed Phytosanitary Program. Any State wishing to establish an official control program would have to conduct a survey demonstrating that CWR does not already exist in the state, conduct periodic nursery inspections illustrating the continued absence of CWR in growing operations, and issue State level regulations which controls the importation of CWR host material into the State and allows for the eradication of CWR if detected within the State. Once a State's official control program is approved by APHIS, any potential host of CWR with that State as its intended final destination would be inspected at the U.S. port and refused entry into the State if CWR is found. However, potential CWR hosts arriving at ports, and destined for States which do not have an official control program for CWR, would not be inspected or regulated for CWR. Additional information regarding The Federally Recognized State Managed Phytosanitary Program is available on the APHIS Web site at http://www.aphis.usda.gov/plant_health/plant_pest_info/frsmp/index.shtml.

4. Completely removing CWR as a quarantine pest whose presence requires an eradication-oriented response, thus allowing propagators and growers to manage CWR as a quality pest of chrysanthemum without Federal restrictions requiring eradication of this pest.

We welcome comments on these options, particularly on the advantages and disadvantages of each option and the commenter's preferred option. If none of the options under consideration seem appropriate, we encourage the submission of new options or suggestions that we may have overlooked, as well as comments on the advantages of these new options or suggestions.

This action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 30th _____ day of July_____.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

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